HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 5742 (M/S) of 2001

(Old No. 3849 of 1994)

Mohan Chandra S/o Bhola Dutt R/o Village
Matena, Patti Bichala Katyur, P.O. Baijnath
Tehsil Bageshwar, District-Almora. .....Petitioner

Vs.

1. The State of Uttar Pradesh, through the District- Magistrate, Almora.
2. The Tehsildar Bageshwar, District Almora.
3. Sri Kailash Chandra S/o Devi Dutta R/o Village Matena Patti Bichala Katyur, P.O. Baijnath, Tehsil Bageshwar, District-Almora.
4. Prakash Chandra S/o Devi Dutta.
5. Girish Chandra S/o Devi Dutta.
6. Sri Umesh Chandra S/o Devi Dutta.
7. Sri Ramesh Chandra S/o Devi Dutta.
8. Sri Kishore S/o Devi Dutta.
9. Smt. Renu Bhatt D/o Badri Dutta
   All residents of Village Matena Patti Bichsla Katyur, P.O. Baijnath, Tehsil Bageshwar, District-Almora. ....Respondents

Sri M.C. Kandpal learned Senior Advocate for the petitioner.
Sri B.D. Upadhaya learned counsel for the respondents No.3 to 9.
Sri Nand Prasad learned counsel for the respondents.

Dated:- 27-02-2006

Hon'ble B.S. Verma, J.

Heard Sri M.C. Kandpal learned senior advocate for the petitioner, Sri B.D. Upadhaya learned counsel for the respondents No. 3 to 8 and Sri Nand Prasad learned counsel for the respondents.

The writ petition has been filed against the impugned order dated 28.12.1993 (Annexure-9) to the writ petition passed by Tehsildar Bageshwar, District- Almora in mutation proceedings, which are summary in nature.

Section 40-A of Land Revenue Act provides that:-

"*4o-A Saving as to title suits- No order passed under Section 33, Section 35, Section 39, Section 40, Section 41 or Section 54 shall bar any suit in a competent Court for relief on the basis of a right in a holding.*"

In view of Section 40-A of Land Revenue Act, the petitioner has an alternate remedy to file suit in competent court for relief on the basis of a right in holding.

The writ petition is here by dismissed in limine.

(B.S. Verma,J)

Dated:- 27-2-2006
M.K.